

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-291-C - ORDER NO. 97-996
NOVEMBER 20, 1997

IN RE: Application of Annox, Inc. for a) ORDER
Certificate of Public Convenience and) APPROVING
Necessity to Provide Local Telecommuni-) CERTIFICATE
cations Services throughout the State) TO PROVIDE
of South Carolina.) LOCAL SERVICE

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of Annox, Inc. ("Annox" or "the Company"). The Application requests that the Commission issue a Certificate of Public Convenience and Necessity to allow Annox to provide resold local exchange telecommunications services in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated July 29, 1997, the Commission's Executive Director instructed Annox to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide notice of the hearing date on this matter. Annox complied with this instruction and provided the Commission with proof of publication of the

Notice of Filing and Hearing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on October 29, 1997, 2:30 p.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. Annox was not represented by counsel. The Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. SCTC did not appear at the hearing.

Prior to the hearing, Annox and the SCTC executed a Stipulation dated September 29, 1997. The Stipulation was filed with the Commission prior to the hearing in this matter. As a result of the Stipulation, SCTC withdrew its intervention in the Docket. The Stipulation was introduced as a Hearing Exhibit (Hearing Exhibit No. 2). The Stipulation provides the following:

- (1) The SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Annox if the Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;
- (2) Annox agrees that any Certificate granted by the Commission will authorize Annox to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;
- (3) Annox agrees that it is not requesting the Commission to find whether competition is in the public interest for rural areas;
- (4) Annox agrees that it will not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until Annox provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it

under Federal and State law. Annox also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

- (5) Annox agrees that if, after Annox gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Annox will not provide service to any customer located within the service area in question without prior and further Commission approval;
- (6) Annox acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;
- (7) Annox and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and
- (8) Annox agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and Annox, was filed with the Commission prior to the hearing in this matter, and was made a part of the record at the

hearing. We therefore approve the stipulation.

In support of its Application, Annox presented Thomas Linder, Jr., President of Annox, to testify. The purpose of Mr. Linder's testimony was to present evidence on the technical, managerial, and financial abilities of Annox to provide resold local exchange telecommunications services in South Carolina and to discuss Annox's service offerings.

DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, Annox's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by Annox should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that Annox possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). To demonstrate Annox's technical and managerial qualifications, Mr. Linder testified that Annox has formed and operated cable television systems in Georgia and Tennessee. Annox began operating as a telephone reseller in Tennessee in November 1996, in Kentucky

in July 1997, in Florida in August 1997, and in Georgia in September 1997. Mr. Linder stated that Annox currently has applications pending in Louisiana and Alabama and that Annox has not had an application denied by any state in which Annox has applied. The management team of Annox has 11 years experience in building and operating cable television systems. Further, Mr. Linder stated that Annox's experienced personnel and management are committed to ensuring that each customer is a long-term satisfied customer.

Regarding Annox's financial resources, the record reveals that Annox is incorporated under the laws of the State of Georgia. Mr. Linder testified that Annox has sufficient financial resources to provide local services. Mr. Linder offered that Annox's 1996 financial statement shows that Annox has net assets valued at \$1.695 million. Further, Mr. Linder stated that Annox has excellent credit references and a sufficient line of credit available at Heritage Bank in Clarksville, Tennessee for any contingency.

No other party offered any evidence in opposition to Mr. Linder's testimony. Based on the undisputed evidence of the record, the Commission finds that Annox possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that Annox will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Mr. Linder testified that Annox

provides local home telephone service on a prepaid basis, primarily to those households which currently do not have telephone service due to poor credit or the inability to pay a deposit. Mr. Linder specifically stated that Annox will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that Annox fully intends to meet the Commission's service standards. Furthermore, Mr. Linder stated that Annox would make certain changes to its tariff, as suggested by Staff, to bring the tariff into compliance with Commission Rules and Regulations. No party offered any evidence to dispute Mr. Linder's testimony. Based on the undisputed testimony from Mr. Linder, the Commission believes, and so finds, that Annox will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that Annox's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Mr. Linder stated that Annox's service offerings would not adversely impact the availability of affordable local exchange service. Mr. Linder offered that certification of Annox would serve to enhance service availability by reaching those households which are not currently served by ILECs. No party offered any evidence that the provision of local exchange service by Annox would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by Annox will not adversely impact affordable local exchange service.

(4) The Commission finds that Annox will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Mr. Linder testified that Annox will support the requirements of universal service in South Carolina and will comply with the Commission's universal service requirements. No party disputed Mr. Linder's testimony. Based on the undisputed evidence of record, the Commission finds that Annox will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by Annox "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996). Mr. Linder offered that approval of Annox to provide services will benefit consumers by enhancing service availability by reaching those households which are not currently served by ILECS due to poor credit or the inability to pay a deposit. Mr. Linder's testimony was undisputed as no party offered any evidence that approval of Annox's Application would adversely impact the public interest. Therefore, the Commission finds that approval of Annox's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by Annox should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of Annox for a Certificate of Public Convenience and Necessity to provide resold local exchange telecommunications services in the State of South Carolina is approved.

2. The Stipulation filed by Annox and the SCTC is approved by this Commission, is binding upon Annox and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina. Annox shall conduct its operations in compliance with the Stipulation until further Order of the Commission.

3. Annox shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes as proposed by the Commission Staff and to which Annox agreed.

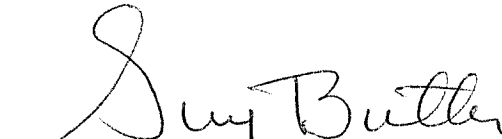
4. Annox shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, Annox shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Annox shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A

shall be utilized for the provision of this information to the Commission.) Further, Annox shall promptly notify the Commission in writing if the representatives are replaced. Annox is directed to comply with all Commission regulations unless expressly waived by the Commission.

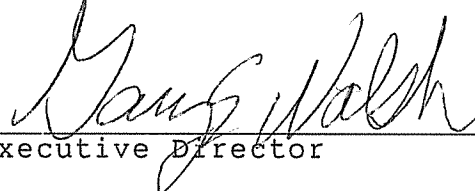
5. Annox shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)

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ATTACHMENT A

INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and
maintain with the Commission the name, title, address, and
telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services
Department at 803-737-5230